



Signed and Filed: February 29, 2024

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re) Bankruptcy Case No. 23-30564-DM
)
THE ROMAN CATHOLIC ARCHBISHOP) Chapter 11
OF SAN FRANCISCO,)
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Debtor.)
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)

**ORDER GRANTING UNITED STATES TRUSTEE'S MOTION FOR ORDER
APPOINTING FEE EXAMINER AND ESTABLISHING PROCEDURES
FOR REQUESTING PROFESSIONAL COMPENSATION AND REIMBURSEMENT
OF EXPENSES**

Upon consideration of the United States Trustee's *Motion for Order Appointing a Fee Examiner and Establishing Procedures for Requesting Professional Compensation and Reimbursement of Expenses* (the "Motion," ECF No. 389), and appearing that the appointment of a fee examiner is appropriate, and has been joined by the Debtor and the Official Committee of Unsecured Creditors (Dkt. 495).

IT IS HEREBY ORDERED that Elise S. Frejka of Frejka PLLC is appointed as the fee examiner (the "Fee Examiner") in this case.

1 Based upon the supporting declaration accompanying the Motion,
2 the Fee Examiner is a disinterested person as defined under the
3 Bankruptcy Code and does not hold or represent an interest
4 adverse to the estate;

5 **IT IS HEREBY FURTHER ORDERED** that unless otherwise ordered
6 by the Court, this order shall apply to all professionals in
7 this chapter 11 case that are employed under sections 327 and
8 1103 (or similar authority) and request compensation and/or
9 reimbursement of expenses for services rendered under sections
10 328, 330, and 331 (or similar authority);

11 **IT IS HEREBY FURTHER ORDERED** that the terms and conditions
12 of any interim compensation order shall not be modified by this
13 order, except as set forth in the Motion and/or herein. Given
14 the size and complexity of this chapter 11 case, the Fee
15 Examiner shall review and report on as appropriate all interim
16 and final applications for allowance of compensation and
17 reimbursement of expenses filed by professionals (the "Retained
18 Professionals"), in accordance with sections 328, 330, and 331
19 (or similar authority) of the Bankruptcy Code and any interim
20 compensation order (collectively, the "Applications");

21 **IT IS HEREBY FURTHER ORDERED** that the Fee Examiner shall
22 review and assess all Applications filed by the Retained
23 Professionals, and the fees and reimbursement of expenses for
24 which allowance is sought pursuant to the Applications, for
25 compliance with the following:

- 26 a. Review and assess all Applications filed by the
27 Retained Professionals, and the fees and
28 reimbursement of expenses for which allowance
is sought pursuant to the Applications, for

1 compliance with: (i) Bankruptcy Code Sections
2 328, 329, 330, and 331, as applicable; (ii)
3 Fed. R. Bankr. P. 2016; (iii) any interim
4 compensation order; (iv) the United States
5 Trustee Guidelines for Reviewing Applications
6 for Compensation and Reimbursement of Expenses,
7 28 C.F.R. Part 58, Appendix A and Appendix B
8 (the "Guidelines"); and (v) the United States
9 Bankruptcy Court for the NDCA Guidelines for
10 Compensation and Expense Reimbursement of
11 Professionals and Trustees (the "NDCA
12 Guidelines");

13 b. Review the Applications filed by each Applicant
14 in this chapter 11 Case (along with the fee
15 detail related thereto), and to the extent
16 possible, the fee examiner shall avoid
17 duplicative review;

18 c. During the course of their review of an
19 Application, consult, as they deem appropriate,
20 with each Applicant concerning such
21 Application;

22 d. During the course of their review of an
23 Application, review, to the extent appropriate,
24 any relevant documents filed in this chapter 11
25 case to be generally familiar with this chapter
26 11 case and the associated public docket;

27 e. Within thirty (30) days after an Applicant
28 files an Application (or such greater time as
the Applicant and fee examiner agree), serve an
initial report (the "Initial Report") on the
Applicant designed to quantify and present
factual data relevant to whether the requested
fees, disbursements, and expenses are in
compliance with the applicable standards of
sections 328, 329, 330, and 331 of the
Bankruptcy Code, Bankruptcy Rule 2016, and
whether the Applicant (if required) has made a
reasonable effort to comply with the United
States Trustee's requests for information and
additional disclosures as set forth in the
Guidelines and NDCA Guidelines;

f. During the period between service of the
Initial Report and filing of the Final Report
(as defined below), engage in written
communication with each Applicant, the
objective of which is to resolve matters raised
in the Initial Report and to endeavor to reach

1 consensual resolution with each Applicant with
2 respect to that Applicant's requested fees and
3 expenses, in furtherance of which the Examiner
4 may also use the resolution process to revise
5 findings contained in the Initial Report, and
6 each Applicant may provide the fee examiner
7 with written supplemental information that the
8 Applicant believes is relevant to the Initial
9 Report;

- 10 g. Following communications between the fee
11 examiner and the Applicant and the fee
12 examiner's review of any supplemental
13 information provided by such Applicant in
14 response to the Initial Report, conclude the
15 informal resolution period by filing with this
16 Court a report with respect to each Application
17 (the "Final Report") within twenty-one (21)
18 days after the service of the Initial Report,
19 which shall be in a format designed to quantify
20 and present factual data relevant to whether
21 the requested fees and expenses of each
22 Applicant are in compliance with the applicable
23 standards of section 330 of the Bankruptcy Code
24 and Bankruptcy Rule 2016, and whether the
25 Applicant has made a good faith reasonable
26 effort to comply with the Guidelines and the
27 NDCA Guidelines; and
- 28 h. Serve each Final Report on counsel for the
Debtor, counsel for the Official Committee of
Unsecured Creditors (the "OCUC"), the United
States Trustee, and each Applicant whose fees
and expenses are addressed in the Final Report.

IT IS HEREBY FURTHER ORDERED that the Fee Examiner may:

- 22 a. File comments on the public docket of the Court
23 regarding any Application by a Retained
24 Professional;
- 25 b. Communicate their concerns regarding any
26 Application to the Retained Professionals to
27 whom such Application pertains, and to request
28 further information as appropriate;
- 29 c. Request Retained Professionals to provide
budgets, staffing plans, or other information
to the fee examiner;

- d. Establish procedures for the resolution of disputes with Retained Professionals;
- e. Recommend procedures to facilitate the preparation and review of Applications;
- f. Appear and be heard on any matter before the Court;
- g. File and litigate objections to the allowance of any Application;
- h. Take, defend, or appear in any appeal regarding any Application;
- i. Conduct discovery; and
- j. Retain, subject to Court approval, professionals (including attorneys and auditors) to represent or assist the fee examiner in connection with any of the foregoing under standards analogous to section 327 and to be compensated under standards analogous to sections 330 and 331.

IT IS HEREBY FURTHER ORDERED that the Debtor, the OCUC, the United States Trustee, and all Retained Professionals shall cooperate with the Fee Examiner in the discharge of the Fee Examiner's duties and shall promptly respond to any reasonable requests for information or communications from the Fee Examiner;

IT IS HEREBY FURTHER ORDERED that the Fee Examiner and any professionals retained by the Fee Examiner shall be entitled to compensation from the estate for their reasonable and necessary fees (Ms. Frejka's at \$530 per hour, per Dkt. 495) and expenses. Any such requests for compensation shall be made by application to the Court and shall be allowed according to the same standards and procedures that apply to the Retained Professionals, including the interim compensation order entered in this case on October 16, 2023 (see ECF No. 212);

IT IS HEREBY FURTHER ORDERED that the Fee Examiner is appointed as an officer of the Court, and the Fee Examiner along

1 with those employed or paid by her with respect to this
2 appointment, shall be given the maximum immunity permitted by
3 law from civil actions with respect to the performance of the
4 duties set forth herein; and

5 **IT IS HEREBY FURTHER ORDERED** that in the event a chapter 11
6 trustee is appointed in this case, such appointment will not
7 terminate or otherwise modify the duties and responsibilities of
8 the Fee Examiner. Rather, the Fee Examiner's appointment shall
9 only be terminated or otherwise modified by entry of an order of
10 the Court.

11 *** END OF ORDER ***
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